

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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ERVIN MIDDLETON JR.,

Case No. 2:20-cv-00638-KJD-VCF

Plaintiff,

ORDER

V.

NV ENERGY, *et al.*,

Defendants.

Before the Court for consideration is the Report and Recommendation (#29) of Magistrate Judge Cam Ferenbach entered July 6, 2020, recommending that the Court dismiss Plaintiff's complaint as a sanction for failing to prosecute and failure to abide by the orders of the Court. Plaintiff filed a document (#32) titled "Response to Wrongdoer's June 29, 2020 Filing and Notice of Void Order[.]"

The Court has conducted an extensive de novo review of the record in this case in accordance with 28 U.S.C. § 636(b)(1) and LR IB 3-2. On June 11, 2020, the Court held a telephonic case management conference, in accordance with Federal Rule of Civil Procedure 16(a). Plaintiff Ervin Middleton failed to appear at the hearing on June 11, 2020. (#23). The Court entered an order scheduling a show cause hearing for 1:00 PM, July 6, 2020. (#24). Middleton was ordered to file with the court, by June 30, 2020, a response showing cause as to why he should not be sanctioned for failing to comply with court order, and to make an appearance at the show cause hearing on July 6, 2020. No response was filed. On July 6, 2020, the Court held a show cause hearing and Middleton failed to appear. Plaintiff's response to the report and recommendation does not explain his failure to respond or appear, other than stating that he is not subject to the authority of the magistrate judge. Middleton is the only "wrongdoer" in this case. The authority of the magistrate judge is evident from statute and Local Rule. The

1 Court determines that the Report and Recommendation (#29) of the United States Magistrate
2 Judge entered July 6, 2020, should be **ADOPTED and AFFIRMED**.

3 IT IS THEREFORE ORDERED that the Magistrate Judge's Report and
4 Recommendation (#29) entered July 6, 2020, are **ADOPTED and AFFIRMED**;

5 IT IS FURTHER ORDERED that Plaintiff's Motion to Remand is **DENIED** because he
6 is factually incorrect about which Defendant removed the action;

7 IT IS FURTHER ORDERED that Plaintiff's action is dismissed with prejudice for
8 Plaintiff's failure to submit to the authority of the court, particularly orders (#16/24);

9 IT IS FURTHER ORDERED that Defendant's Motion to Dismiss (#13) is **DENIED as**
10 **moot**;

11 IT IS FURTHER ORDERED that the Clerk of the Court enter **JUDGMENT** for
12 Defendants and against Plaintiff.

13 Dated this 6th day of January, 2021.

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Kent J. Dawson
United States District Judge

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